



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R07-OAR-2015-0299; FRL-9933-84-Region 7]

**Approval and Promulgation of Air Quality Implementation Plans;
State of Kansas Regional Haze State Implementation Plan Revision
and 2014 Five-Year Progress Report**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve the Kansas State Implementation Plan (SIP) revision submitted to EPA by the State of Kansas on March 10, 2015, documenting that the State's existing plan is making adequate progress to achieve visibility goals by 2018. The Kansas SIP revision addressed the Regional Haze Rule (RHR) requirements under the Clean Air Act (CAA or Act) to submit a report describing progress in achieving reasonable progress goals (RPGs) to improve visibility in Federally designated areas in nearby states that may be affected by emissions from sources in Kansas. EPA is taking final action to approve Kansas' determination that the existing Regional Haze (RH) SIP is

adequate to meet the visibility goals and requires no substantive revision at this time.

DATES: This final rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R07-OAR-2015-0299. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or at the Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219. The Regional Office's official hours of business are Monday through Friday, 8:00 a.m. to 4:30 p.m., excluding Federal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Stephen Krabbe, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at 913-551-7991, or by email at krabbe.stephen@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," or "our" refer to EPA. This section provides additional information by addressing the following:

- I. Background**
- II. Summary of SIP Revision**
- III. Final Action**
- IV. Statutory and Executive Order Reviews**

I. Background

On June 10, 2015, (80 FR 32874), EPA published a notice of proposed rulemaking (NPR) for the State of Kansas. In the NPR, EPA proposed approval of Kansas's progress report SIP, a report on progress made in the first implementation period towards RPGs for Class I areas that are affected by emissions from Kansas sources. This progress report SIP and accompanying cover letter also included a determination that Kansas's existing regional haze SIP requires no substantive revision to achieve the established regional haze visibility improvement and emissions reduction goals for 2018.

States are required to submit a progress report in the form of a SIP revision every five years that evaluates progress towards the RPGs for each mandatory Class I Federal area within the state and in each mandatory Class I Federal area outside the state which may be affected by emissions from within the state.

See 40 CFR 51.308(g). In addition, the provisions under 40 CFR 51.308(h) require states to submit, at the same time as the 40 CFR 51.308(g) progress report, a determination of the adequacy of the state's existing regional haze SIP. The first progress report SIP is due five years after submittal of the initial regional haze SIP. On October 26, 2009, KDHE submitted its regional haze SIP in accordance with the requirements of 40 CFR 51.308. The progress report SIP revision was submitted by Kansas on March 10, 2015, and EPA finds that it satisfies the requirements of 40 CFR 51.308(g) and (h). No comments were received regarding the NPR.

II. Summary of SIP Revision

On March 10, 2015, Kansas submitted a SIP revision to describe the progress made towards the RPGs of Class I areas in and outside Kansas that are affected by emissions from Kansas' sources. This progress report SIP also includes a determination of the adequacy of Kansas' existing regional haze SIP to achieve these RPGs.

Kansas has no Class I areas within its borders. Kansas notes in its progress report SIP that Kansas sources were also identified as potentially impacting four Class I areas in three neighboring states: Caney Creek Wilderness Area in Arkansas,

Hercules-Glades Wilderness Area in Missouri, Mingo Wilderness Area in Missouri, and Wichita Mountains Wilderness Area in Oklahoma.

The provisions in 40 CFR 51.308(g) require a progress report SIP to address seven elements. EPA finds that Kansas' progress report SIP addressed each element under 40 CFR 51.308(g). The seven elements and EPA's conclusion are briefly summarized in this rulemaking action.

The provisions in 40 CFR 51.308(g) require progress report SIPs to include a description of the status of measures in the approved regional haze SIP; a summary of emissions reductions achieved; an assessment of visibility conditions for each Class I area in the state; an analysis of changes in emissions from sources and activities within the state; an assessment of any significant changes in anthropogenic emissions within or outside the state that have limited or impeded progress in Class I areas impacted by the state's sources; an assessment of the sufficiency of the approved regional haze SIP; and a review of the state's visibility monitoring strategy. As explained in detail in the NPR, EPA finds that Kansas' progress report SIP addressed each element and has therefore satisfied the requirements under 40 CFR 51.308(g).

In addition, pursuant to 40 CFR 51.308(h), states are required to submit, at the same time as the progress report SIP, a determination of the adequacy of their existing regional haze SIP and to take one of four possible actions based on information in the progress report. One possible action is submission of a negative declaration to EPA that no further substantive revision to the state's existing regional haze SIP is needed. In its progress report SIP, Kansas submitted a negative declaration that it had determined that its existing regional haze SIP requires no further substantive revision to achieve the RPGs for the Class I areas that are affected by emissions from Kansas's sources. As explained in detail in the NPR, EPA concludes Kansas has adequately addressed 40 CFR 51.308(h) because the visibility data trends at the Class I areas impacted by Kansas's sources and the emissions trends of the largest emitters of visibility-impairing pollutants both indicate that the RPGs for 2018 will be met or exceeded. Therefore, EPA concludes Kansas' progress report SIP meets the requirements of 40 CFR 51.308(h).

III. Final Action

EPA is taking final action to approve Kansas' regional haze five-year progress report and SIP revision, submitted March 10, 2015, as meeting the applicable regional haze requirements as set forth in 40 CFR 51.308(g) and 51.308 (h).

Statutory and Executive Order Reviews

Under the Clean Air Act (CAA), the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b) (1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b) (2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: August 20, 2015.

Mark Hague,
Acting Regional Administrator,
Region 7.

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as set forth below:

PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart R - KANSAS

2. In § 52.870, the table in paragraph (e) is amended by adding entry (42) at the end of the table to read as follows:

§ 52.870 Identification of plan.

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(e) * * *

EPA-Approved Kansas Nonregulatory Provisions

Name of nonregulatory SIP provision	Applicable geographic or Nonattainment area	State submittal date	EPA approval date	Explanation
* * * * *				
(42) State Implementation Plan (SIP) Revision for the Attainment and Maintenance of National Ambient Air Quality Standards for Regional Haze (2014 Five-Year Progress Report).	Statewide	3/10/15	[Insert Federal Register date of publication date] and [Insert Federal Register citation]	